THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 16294 of 2007

DATE: 31-07-2007

Between:

VAR Sastry and another

… Petitioners

And

The State Bank of Hyderabad,
Rep., by its Chief Manager/authorized Officer,
Hyderabad.

… Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.16294 of 2007

ORDER:

This Writ Petition is filed seeking a declaration that the possession notice dated 21.7.2007 issued by the respondent-Bank under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'Securitisation Act') as arbitrary and illegal.

It is not in dispute that a demand notice was earlier issued under Section 13(2) of the Act calling upon the petitioners to discharge the liability in full within 60 days. The petitioners state that after receiving the said notice on 21.5.2007, they submitted their objections on 18.7.2007. It is contended that the impugned action of the respondent in issuing possession notice without considering the objections raised by the petitioners as arbitrary, illegal and contrary to the mandatory provisions of sub-section (3-A) of Section 13 of the Act.

I have heard the learned counsel for the petitioners and Sri G. Simhadri, learned counsel appearing for the respondent-Bank.

The requirement under sub-section (3-A) of Section 13 of the Act is mandatory and once a representation is made by the borrower raising any objection, the secured creditor is bound to consider such representation or objection and if the secured creditor comes to the conclusion that such objection is not acceptable or tenable, the same shall be communicated within one week of receipt of representation or objection to the borrower with reasons for non-acceptance.

Nothing could be placed before this Court by the respondent to

show that the objection raised by the petitioners were considered as required under sub-section (3-A) of Section 13 of the Act.

In the circumstances, the impugned possession notice dated 21-07-2007 being contrary to the provisions of Section 13 (3-A) of the Act, is hereby set aside and the writ petition is disposed of leaving it open to the respondent to take appropriate steps in accordance with law after passing the orders in terms of sub-section (3-A) of Section 13 of the Act. No costs.

G. ROHINI, J.

Date:31-07-2007
Note: Issue C.C. in two days.
B/o
KLP